

### **REMARKS**

Applicants submit this Amendment in response to the Office Action dated July 20, 2006 accompanied by a petition for a one-month extension of time. Claims 10-20 are withdrawn. Claims 1-9 are amended. Claim 21 has been added for examination on the merits. Accordingly, claims 1-9 and 21 are under consideration. No new matter has been added.

A check covering the requisite petition and extra claim fees is submitted herewith. Applicants believe that no additional fees are necessary for proper entry and consideration of this Amendment. Nevertheless, if the Office deems otherwise, Applicants hereby authorize the Director to charge any deficiency to Deposit Account No. 13-2855.

In light of the foregoing amendments to the claims and the following remarks, Applicants believe that the present application is in condition for allowance and respectfully request the Examiner to acknowledge the same.

### **DRAWING OBJECTIONS**

The drawings stand objected to under 37 CFR 1.83(b) as allegedly being incomplete. Specifically, the Office Action alleges that one of ordinary skill in the art would not understand the specific differences between the features identified by reference numerals 20, 28a, 20a, and 32 in FIG. 2. The Office Action further alleges that while the specification sets forth a different element for each of these reference numbers, FIG. 2 does not provide enough detail to be able to determine the exact distinctions of each reference numeral.

Without conceding or taking a position as to the merits of these drawing objections, Applicants submit that Replacement Drawing Sheets are submitted herewith to more particularly illustrate and reference the subject matter depicted in FIG. 2. Moreover, as provided hereinabove, various portions of the written description have been amended, without adding new matter, to more clearly and particularly described the figures. Accordingly, Applicants believe that the specification, as a whole, including the written description and figures, provide adequate detail for a person having skill in the art of retail apparatus', product dump tables, etc., to determine the exact distinctions between reference numerals 20, 28a, 20a, and 32 provided in FIG. 2.

For example, Applicants submit that reference numeral 30 clearly identifies the mounting structure, which, in the embodiment of FIGS. 1 and 2, includes a pair of hangers 20. Each of the hangers 20 includes mutually extending perpendicular legs 20a, 20b, as clearly depicted and identified in FIG. 2. The leg 20a is secured to a top surface 28a of a generally horizontal frame member 28. The legs 20a, 20b, in combination with the generally horizontal frame member 28, define a sleeve 32.

Moreover, the Office Action objects to the drawings for failing to adequately illustrate a sleeve 32, as recited in claims 6 and 7. Without conceding or taking a position as to the merits of this alleged objection, Applicants submit that amended FIG. 2, as submitted herewith, clearly shows the sleeve 32.

In light of the foregoing, Applicants respectfully request reconsideration and withdrawal of these alleged drawing objections.

#### **ABSTRACT**

The Office Action reminds the Applicants of the proper language and format that an Abstract must take.

Applicants submit that the Abstract, as originally filed, satisfies all format requirements of the Patent Office.

#### **CLAIM OBJECTIONS**

Claim 4 stands objected to for lacking the word “with” between “associated” and “the top ends.” Per the Examiner’s suggestion, Applicants have amended claim 4 to properly recite “associated with the top ends.”

Applicants respectfully request reconsideration and withdrawal of this objection.

#### **REJECTIONS UNDER 35 U.S.C. §112**

Claims 1-9 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Without conceding or taking a position as to the merits of these rejections, Applicants submit that claim 1 has been amended herein to positively recite “A retail display apparatus,

comprising: a product dump table having a side wall terminating in a top edge...a support structure to be placed in confronting relation to the side wall...a mounting structure to be placed in operative association with the top edge...and a presentation structure for visually displaying product on the side wall...” Accordingly, claim 1 now satisfies the definiteness requirements of 35 U.S.C. §112.

Reconsideration and withdrawal of these alleged indefiniteness rejections are respectfully requested.

**CLAIM REJECTIONS UNDER 35 U.S.C. §102 AND §103**

Claims 1, 2, 5, 6, 8, and 9 stand rejected under 35 U.S.C. §102(e) as allegedly anticipated by Shumway (U.S. Patent No. 6,540,093). Claims 3, 4, and 7 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Shumway.

As mentioned above, claim 1 has been amended herein to recite “A retail apparatus, comprising: a product dump table ...a support structure ...a mounting structure ...and a presentation structure ...” Applicants submit that Shumway fails to teach, suggest, or disclose, either expressly or inherently, each and every feature of amended claim 1.

Specifically, Applicants submit that Shumway fails to disclose a retail display apparatus comprising a product dump table in combination with the other features recited in claim 1. Rather, Shumway merely discloses a pair of hanging support tracks 12 adapted to support a shelf 68 adjacent a window. The support tracks 12 are adapted to hang on the wood trim typically provided around the perimeter of the window. Nowhere does Shumway even mention a product dump table adapted to be used in combination with the device disclosed therein. Accordingly, Shumway cannot possibly anticipate claim 1, and claim 1 is thus in condition for allowance. Furthermore, claims 2-9 are in condition for allowance as being dependent on an allowable base claim.

Moreover, Applicants submit that no prima facie case of obviousness can be based, even in part, on Shumway because Shumway is not even remotely related to retail apparatuses, and therefore constitutes non-analogous art. The subject matter of Applicants’ present application falls within retail display apparatuses, which is an endeavor not even contemplated by Shumway. Shumway focuses its endeavor on home or office shelving, providing a location to position plants to be exposed to daylight. *See Background of the*

Invention section of Shumway. Further still, Shumway does not contemplate the same problem solved by Applicants' claimed apparatus. Applicants' apparatus makes use of the side walls of product dump tables, which otherwise constitute wasted space, to promote sales and increase profitability in a retail environment. To the contrary, the only problem Shumway foresees solving is one of increasing plant space adjacent a window. Accordingly, Shumway neither falls within the same field of endeavor as the present application, nor is it reasonably pertinent to the problem being solved. Thus, Shumway cannot form the basis for a prima facie case of obviousness.

Applicants respectfully request reconsideration and withdrawal of these alleged anticipatory and obviousness rejections.

### **NEW CLAIMS**

New claim 21 has been added herein for examination on the merits. New claim 21, similar to amended claim 1, recites a retail display apparatus, comprising a product dump table in combination with a variety of other features. Accordingly, Applicants submit that claim 21 is allowable for the same reasons as claim 1, which were discussed above.

Prompt and favorable consideration of new claim 21 is respectfully requested.

### **CONCLUSION**

In light of the foregoing, Applicants believe that all rejections, objections, and/or other concerns have been either traversed, accommodated, or rendered moot. Accordingly, the present application is in condition for allowance. If there is any remaining issue that the Office believes may be remedied via telephone conference, Applicants hereby invite the Examiner to telephone the undersigned at (312) 474-6300.

Dated: November 20, 2006

Respectfully submitted,

By

  
Michael P. Furmanek

Registration No.: 58,495

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicants

# **APPENDIX**